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| APPLICATION NO.                | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
|--------------------------------|-------------|----------------------|---------------------|------------------|
| 10/749,681                     | 12/31/2003  | Bryon Paul Day       | 19589               | 2161             |
| 23556                          | 7590        | 08/04/2006           | EXAMINER            |                  |
| KIMBERLY-CLARK WORLDWIDE, INC. |             |                      | MULLIS, JEFFREY C   |                  |
| 401 NORTH LAKE STREET          |             |                      | ART UNIT            |                  |
| NEENAH, WI 54956               |             |                      | PAPER NUMBER        |                  |

1711

DATE MAILED: 08/04/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

Application No.

10/749,681

Applicant(s)

DAY ET AL.

Examiner

Jeffrey C. Mullis

Art Unit

1711

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 29 June 2006.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-9 and 13-32 is/are pending in the application.
- 4a) Of the above claim(s) 17-28 is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-9, 13-16 and 29-32 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date 6-29-06.
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_

Art Unit: 1711

Claims 1-9, 13-16 and 29-32 are rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the written description requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventor(s), at the time the application was filed, had possession of the claimed invention. The specification as filed does not disclose that applicants "blended composition of block copolymer does not comprise an adhesive". This limitation is therefore new matter.

Claims 1-9, 13-16 and 29-32 are rejected under 35 U.S.C. 102(b) as anticipated by or, in the alternative, under 35 U.S.C. 103(a) as obvious over Grennes et al (US 5,444,121).

Patentees disclose a composition which may containing 2 parts SIS and one part SBS (column 3, lines 41-55) and in which a high styrene block copolymers having up to 40% styrene may be used (column 3, lines 9-23). Hydrogenated styrene-olefin-styrene may be added as a third component at the paragraph bridging columns 3 and 4. With re to cast films, patentees disclose a process in which a solution of the composition is used to form a film by allowing the solution to evaporate, a process encompassing cast film formation. Note newly cited pgpubs '78, '45, '41, '53, and '26 at paragraphs at paragraphs 158, 60, 57, 57 and 129 in this re. In any case applicants are claiming a product not a process and it is immaterial if the prior art does not use applicants process to form the claimed product.

When the reference discloses all the limitations of a claim except a property or function, and the Examiner cannot determine whether or not the

Art Unit: 1711

reference inherently possesses properties which anticipate or render obvious the claimed invention, basis exists for shifting the burden of proof to applicant. Note In re Fitzgerald et al. 619 F. 2d 67, 70, 205 USPQ 594, 596, (CCPA 1980). See MPEP § 2112-2112.02.

With re to applicants melt flow rates, such are a function of molecular weight as are viscosities and high melt flow rate materials have low molecular weights and low viscosities. Note that the lowest viscosity block copolymer has only a twentieth that of the highest at column 3, lines 9-23 and thus the low viscosity material reasonably appears to correspond to applicants high melt flow rate materials.

When the reference discloses all the limitations of a claim except a property or function, and the Examiner cannot determine whether or not the reference inherently possesses properties which anticipate or render obvious the claimed invention, basis exists for shifting the burden of proof to applicant. Note In re Fitzgerald et al. 619 F. 2d 67, 70, 205 USPQ 594, 596, (CCPA 1980). See MPEP § 2112-2112.02.

Applicant's arguments filed 6-8-06 have been fully considered but they are not persuasive. Page 26, lines 27-28 does not disclose that applicants blended composition does not contain adhesive but rather that films formed from the composition do not have adhesive on the surface. With re to the production of

Art Unit: 1711

cast films, applicants are claiming a product not a process and any case Grennes' production process encompasses cast film formation. The remaining art formerly relied upon has been withdrawn due to applicants negative limitation.

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication should be directed to Jeffrey C. Mullis at telephone number 571 272 1075.

Jeffrey C. Mullis  
J Mullis  
Art Unit 1711

JCM

Application/Control Number: 10/749,681

Page 5

Art Unit: 1711

7-9-06

Jeffrey Mullis  
Primary Examiner  
Art Unit 1711

A handwritten signature in black ink, appearing to be 'JM', located below the printed name and title.